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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,556	10/26/2001	Daniel P. Healy	ZL668/01001	6092
27868	7590	02/08/2006	EXAMINER	
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			WEIER, ANTHONY J	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/055,556	Applicant(s) HEALY, DANIEL P.	
	Examiner Anthony Weier	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 15-27 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 and 26 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-10, 13, 15-19, and 24 is/are rejected.
- 7) ☒ Claim(s) 11,12 and 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Numbering

1. It should be noted that there exists two instances of "claim 23". Under CFR 1.126, the claims have been renumbered wherein the second recitation of claim 23 to claim 26 are now referred to as claims 24-27, respectively.

Claim Rejections - 35 USC § 112

2. Claims 1, 2, 4-10, 13, 15-19, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2, 4-10, 13, and 15-19 are indefinite in that same lack nexus with respect to the first and second cylinders and how they relate to one other. Applicant's amendments of claims 1 and 13 have brought more clarity to said claims, however, it is still not clear how the first and second cylinders are related. Do they function in moving the coring station to and from the lifting device or feed material? Do they interact with one another or merely act in unison in lifting, lowering, or moving the feed material from one horizontal location to another? The instant claims remain indefinite as to how these elements relate in function to one another and other elements of the apparatus. It should be noted that claims 11, 20, 25 and 26 provide such nexus wherein it is clear as to how the two cylinders are related and the function of same.

Election/Restrictions

3. This application contains claim 27 (previously referred to as "claim 26") drawn to an invention nonelected with traverse in the response filed 11/19/03. A complete reply

to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Allowable Subject Matter

4. Claims 25 and 26 (previously "24" and "25", respectively) are allowed.
5. Claims 1 and 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
6. Claims 2, 4-10, and 15-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Claims 11, 12, and 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

8. Regarding claims 1, 2, 4-13, and 15-25 the prior art of record neither discloses nor suggests employing an coring machine having an arcuate scoop having a feed area gate depending from said scoop. Although Martin does disclose a fruit treatment apparatus having a lift device, same employs barbs to hold the fruit in place and not a feed gate, arcuate related scoop and, in view of the prior art of record, there would be motivation for substituting such attributes to the lift device of Martin. With respect to claims 10-12 and 26, the prior art for record does not disclose nor suggest the use of a coring tube axially aligned with a circular blade within a device as specifically set forth in the instant claims. With respect to claim 13, the prior art for record neither discloses nor

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suggests the use of slidably adjustable blades employed between the lifting device and coring station. It would not have been obvious to have modified the turret enabled apparatus of Tsutsumi to include same.

Response to Arguments

9. Applicant's arguments filed 11/21/05 have been fully considered with respect to the remaining rejection but they are not persuasive and have been addressed in view of the rejection above (i.e. 112, 2nd Paragraph rejection).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

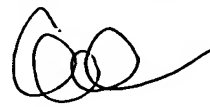
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
February 3, 2006

Anthony Weier
Primary Examiner
Art Unit 1761



2/3/06